

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RIKU SUOMELA and JUHA LEHIKONEN

Appeal No. 2005-2505
Application 09/740,277

ON BRIEF

Before JERRY SMITH, BARRY, and MACDONALD, **Administrative Patent Judges.**

MACDONALD, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-49.

Invention

Appellants' invention relates to a method and system for activating speech recognition in a user terminal. Appellants' specification at page 2, lines 3-4.

Claim 1 is representative of the claimed invention and is reproduced as follows:

1. A method for activating speech recognition in a terminal, comprising the steps of:

- (a) detecting an event at the terminal;
- (b) performing a first command in response to the event of step (a);
- (c) automatically activating speech recognition at the terminal in response to said step (a);
- (d) determining whether a second command is received by one of the speech recognition and a primary input of the terminal during a speech recognition time period commenced upon a completion of said step (b);
- (e) deactivating the speech recognition at the terminal if it is determined that the second command is not received by the one of the speech recognition and a primary input of the terminal in said step (d) during the speech recognition time period;
- (f) determining whether the second command is received by the primary input after step (e); and
- (g) performing the second command received in one of said steps (d) and (f).

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References

The references relied on by the Examiner are as follows:

Matthews	4,481,384	Nov. 6, 1984
French-St. George et al. (French)	6,012,030	Jan. 4, 2000
Jenkins	6,377,793	Apr. 23, 2002 (Filed Dec. 6, 2000)

Rejections At Issue

Claims 1-17, 27-32, 40-41, and 47-49 stand rejected under 35 U.S.C. § 103 as being obvious over the combination of French and Matthews.

Claims 18-26, 33-39, and 42-46 stand rejected under 35 U.S.C. § 103 as being obvious over the combination of French, Matthews, and Jenkins.

Throughout our opinion, we make references to the Appellants' briefs, and to the Examiner's Answer for the respective details thereof.¹

¹Appellants filed an appeal brief on April 28, 2004. The Examiner mailed an Examiner's Answer on June 16, 2004.

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated **infra**, we affirm the Examiner's rejection of claims 1-49 under 35 U.S.C. § 103.

Appellants have indicated that for purposes of this appeal the claims stand or fall together in two groupings:

Claims 1-17, 27-32, 40-41, and 47-49 as Group I; and

Claims 18-26, 33-39, and 42-46 as Group II.

See page 4 of the brief. However, Appellants argue three groups of claims separately and explain why the claims of each group are believed to be separately patentable. See pages 4-10 of the brief. We will, thereby, consider Appellants' claims as standing or falling together in the three groups noted below, and we will treat:

Claim 1 as a representative claim of Group I (claims 1-17, 27-32, and 40-41); and

Claim 47 as a representative claim of Group II (claims 47-49).

No claim is selected a representative claim of Group III (claims 18-26, 33-39, and 42-46).

I. Whether the Rejection of Claims 1-17, 27-32, 40-41, and 47-49 Under 35 U.S.C. § 103 is proper?

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the invention as set forth in claims 1-17, 27-32, and 40-41. Accordingly, we affirm.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a **prima facie** case of obviousness. **In re Oetiker**, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). **See also In re Piasecki**, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. **In re Fine**, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. **See also Piasecki**, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. "In reviewing the [E]xaminer's decision on appeal, the Board must

necessarily weigh all of the evidence and argument." **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. "[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." **In re Lee**, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

With respect to independent claim 1, Appellants argue at page 5 of the brief, French "explains in col. 2, line 55-col. 3, line 2, that the use of time windows is undesirable." We do not agree. Appellants cite no specific language in French to support their argument and our review finds no such language. Rather, the cited portion of French merely states that time windows are known, but they do not include an indication of the length of the time window (providing an indication that speech recognition is now in background state being one of French's inventive features). Contrary to Appellants' position, French does teach it is known in the art to use a time window to turn off speech recognition to conserve processing power at lines 55-62 of column 2. We recognize that French describes using active state triggering ("keys or tactile interface to initiate another process" at col. 6, lines 55-56). However, French does not preclude using active state triggering in combination with passive state triggering (the time window as used in col. 2,

lines 55-62). We note that lines French also teaches this passive state triggering with respect to a related invention at lines 8-11 of column 1.

Appellants argue at page 6, that "French overcomes the disadvantages of time windows by implementing a foreground state and a background state for speech recognition," and "[t]o apply a time window for speech recognition to French would go against the teachings of French." Again we disagree. At no time does French ever use the word "disadvantage" to describe the time window. Rather, at most French states that a user "may be confused" as to which input state or mode a device is in currently (col. 2, line 66, through col. 3, line 4).

Appellants admit at page 7, that "[i]t is appropriate to use time windows in Matthews because the system should not wait indefinitely for an input by a user in an access mode." Appellants then argue this feature is not appropriate for French because "French teaches that speech recognition should always be available for receiving voiced commands to be performed." We do not agree. As above, Appellants cite no specific language in French to support their argument and our review finds no such language.

As discussed above, Appellants' arguments fail to establish any error in the Examiner's **prima facie** case. Appellants have done nothing more than use known techniques for their intended purpose to achieve an entirely expected result. Therefore, we will sustain the Examiner's rejection under 35 U.S.C. § 103.

**II. Whether the Rejection of Claims 47-49 Under
35 U.S.C. § 103 is proper?**

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the invention as set forth in claims 47-49. Accordingly, we affirm.

With respect to dependent claim 47, Appellants argue at page 9 of the brief, that French does not disclose either alternative feature of claim 47 at lines 27-30 of column 6 (the section of French cited by the Examiner in the rejection of claim 47). We do not agree.

Claim 47 requires "notification of an external event." French specifically describe "a user may pick up the mobile phone, thus activating the unit" at lines 24-26 of column 6 of French. The Examiner specifically cited these lines of French with respect to the rejection of claim 1 from which claim 47

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depends. Additionally, this citation was with respect to the feature found in claim 47 and the rejection of claim 47 specifically notes that claim 47 sets forth "the same limits as claim 1."

Appellants appear to argue that the section of French specifically cited in the rejection of claim 47 should be viewed in a vacuum without consideration of the sections of French cited in the rejection of claim 1 (from which claim 47 depends). We disagree.

Therefore, we will sustain the Examiner's rejection under 35 U.S.C. § 103.

III. Whether the Rejection of Claims 18-26, 33-39, and 42-46 Under 35 U.S.C. § 103 is proper?

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the invention as set forth in claims 18-26, 33-39, and 42-46. Accordingly, we affirm.

With respect to dependent claims 18 and 33, Appellants do not present a separate argument. Therefore, these claims stand or fall based on the arguments with respect to the claims from which they depend.

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With respect to dependent claims 19-26, 34-39, and 42-46, Appellants attack Jenkins individually as failing to show claimed features. For example, Appellants argue that Jenkins fails to teach "a context aware application." However, French, which is used in combination with Jenkins, describes on its face such an application. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. **See In re Keller**, 642 F.2d 413, 426, 208 USPQ 871, 882 (CCPA 1981); **In re Merck & Co.**, 800 F.2d 1091, 1097, 231 USPQ 375, 380 (Fed. Cir. 1986). The effect of Appellants attack on Jenkins individually is that Appellants have not presented a separate argument with respect to the actual rejection of claims 19-26, 34-39, and 42-46 based on the combination of three reference. Therefore, these claims stand or fall based on the arguments with respect to the claims from which they depend.

Conclusion

In view of the foregoing discussion, we have sustained the rejection under 35 U.S.C. § 103 of claims 1-49.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37
CFR § 1.136(a)(1)(iv).

AFFIRMED

JERRY SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LANCE LEONARD BARRY)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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